

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Hicks,

Case No. 21-cv-1957 (ECT/DTS)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

Daniel Isaac Smith, et al.,

Defendants.

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Plaintiff Hicks filed this action on August 31, 2021, along with a Motion for Agency Stay, which this Court construes as a request for Writ of Prohibition. Approximately two weeks later Hicks filed an Amended Complaint and requested summons. On September 22, 2021, the Clerk's Office issued the requested summons and mailed them to Hicks at the address provided by him in his initiating documents. The mail was returned as undeliverable and marked "undeliverable as addressed" by the U.S. Postal Service.

On October 19, 2021, Hicks called the Clerk's Office and the Court verified the address the Court was using was correct. Another copy of the summons was mailed that day. On November 2, 2021, the mail was again returned with the mark "undeliverable as addressed." It has been two months since Hicks last contacted the Court and because plaintiff provided only "Hicks" as a name with no more information and the U.S. Postal Service is not recognizing the name Hicks and/or the address he provided, it is not possible to contact plaintiff regarding this case.

Accordingly, this Court **RECOMMENDS** that: This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: December 17, 2021

s/David T. Schultz  
DAVID T. SCHULTZ  
U.S. Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).